

14230 U.S. PTO
08/22/03

PATENT
Atty. Docket No. 1171/40069B/112B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Certificate of Mailing by "Express Mail"
Express Mailing No.: EV 326284705115
Date of Deposit: August 22, 2003
I hereby certify that this paper & fee is being deposited with the United States Postal Service "Express Mail Post Office Box Addressee" Under 37 C.F.R. §1.10 on the date indicated above addressed to Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450.
Jeffrey E. Sexton
Jeffrey E. Sexton

03915 U.S. PTO
10/646434
08/22/03

BOX PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF FILING UNDER 37 CFR 1.53(b)

1. **Type of Application**

This new application for a

☒ Continuation

☐ Divisional

application under 37 CFR 1.53(b), of pending prior application Serial No. 10/072,271, which was filed on February 7, 2002, of Gregory James Olsen, Martin Leckie; Neil Prime; Lewis George Gradon; Nicholas Charles Alan Smith; Alastair Edwin McAuley; Mark Joseph Haycock and Chris Earl Nightingale and entitled "BREATHING ASSISTANCE APPARATUS" which is a Continuation-In-Part of United States Serial No. 09/881,633 filed on June 14, 2001.

2. **Benefit of Prior U.S. Application(s)**

☒ The new application being transmitted claims the benefit of prior U.S. application(s).

☐ Amend the specification by inserting on the first page, after the title:

3. **Papers Enclosed**

☒ 8 pages of specification

☒ 3 page of claims

☒ 1 page of Abstract

☒ 15 sheets of **informal** drawings

☒ 2 pages of *executed* declaration and power of attorney.

☒ 6 pages of an Application Data Sheet

4. **Amendments**

☒ A Preliminary Amendment is enclosed.

5. **Information Disclosure Statement**

☒ An Information Disclosure Statement is submitted herewith.

6. **Fee Calculation (37 CFR 1.16)**

CLAIMS AS FILED			
Number Filed	Number Extra	Rate	Basic Fee
			\$ 750.00
Total Claims 44	24	x \$ 18.00	\$ 432.00
Independent Claims 4	1	x \$ 84.00	\$ 84.00
Multiple dependent claim(s), if any		+ \$280.00	\$ 280.00
Filing Fee Calculation		\$	\$ 1546.00

7. **Small Entity Status**

☐ Applicant hereby asserts status as a Small Entity under 37 C.F.R. §1.27

8. **Inventorship Statement**

(a) With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC 120, the inventor(s) in this application is (are):

☒ the same

☐ less than those named in the prior application. It is requested that the following inventors identified above for the prior application be deleted:

(b) The inventorship for the claims in this application is:

☒ the same.

☐ not the same. And an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

9. **Assignment**

☒ The prior application is assigned of record to

Fisher & Paykel Healthcare Limited, 78 Springs Road, East Tamaki, Auckland,
New Zealand

10. **Fee Payment Being Made At This Time**

- ☒ basic filing fee: \$ 1546.00
- ☐ recording assignment (\$40.00; 37 CFR 1.21(h))
(See attached "COVER SHEET FOR ASSIGNMENT ACCOMPANYING NEW
PATENT APPLICATION".)
- ☐ processing and retention fee (\$130.00; 37 CFR 1.53(d) and 1.21(l)).

11. **Method of Payment of Fees**

- ☒ A check in the amount of \$1546.00

12. **Authorization To Charge Additional Fees**

- ☒ The Commissioner is hereby authorized to charge the following additional fees
which may be required by this paper and during the entire pendency of the
application to Account No. 12-2252.
- ☒ 37 CFR 1.16(a), (f) or (g) (filing fees)
- ☒ 37 CFR 1.16(b), (c) and (d) (presentation of extra claims)
- ☐ 37 CFR 1.17 (application processing fees)

13. **Power of Attorney**

- ☒ The power of attorney in the prior application is to
Raiford A. Blackstone, Jr., Reg. No. 25,156
- a. ☒ The power appears in the original papers in the prior application.
Enclosed herewith is an executed copy of the Power as filed on July 25,
2002.
- b. ☐ Because the power does not appear in the original papers, a copy of the
power in the prior application is enclosed.
- c. ☐ A new power has been executed and is attached.
- d. ☒ Address all future communications to:
Raiford A. Blackstone, Jr.
TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 W. Adams Street
Suite 3600
Chicago, Illinois 60603-6299
(312) 704-1890

14. **Petition for Extension of Time in Prior Application**

- ☐ A petition for extension of time and an amendment was filed on _____
with the pending parent application to extend the date for response up to and
including _____.
- ☐ A copy of the petition for extension of time in the pending parent application is
attached.

Respectfully submitted,

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.

Attorney for Applicant

Date: August 22, 2003

By: Raiford A. Blackstone, Jr.

Raiford A. Blackstone, Reg. No. 25,156

Linda L. Palomar, Reg. No. 37,903

Trexler, Bushnell, Giangiorgi,

Blackstone & Marr, Ltd.

105 W. Adams St., 36th Floor

Chicago, Illinois 60603

(312) 704-1890

548019.WPD